

Good afternoon. My name is Bob Bradshaw and I'm the President & CEO of the Independent Insurance Agents of Virginia. Independent insurance agents write over 80% of the commercial insurance in the Commonwealth of Virginia. They write between 35 and 40% of the personal lines insurance. They range from some of the largest brokerage houses in the nation to the single main street office in Wytheville, Virginia. Independent agents represent more than one insurance company and average around 10 carriers but can run into the hundreds. As a way of explanation, a State Farm agent could not join my association because they represent only one company and do not have ownership of their book of business. With that said, we represent close to 500 independent insurance agencies and over 100 insurance companies with over 6,000 professional employees in the Commonwealth of Virginia.

Today I will make some general comments and observations about insuring short term rentals. My associate – Joe Hudgins – will provide a brief overview of the standard homeowners policy in Virginia, and then I will address some areas where the industry is unsettled – where potential land

mines are for consumers and specifically address questions presented in advance.

Generally speaking, those who list their homes, condos, apartments, rooms – what have you – don't believe they are entering into a commercial enterprise. They have not sat down with their insurance agent to determine what financial, property and liability exposures they are opening themselves up to. Very few of our members have indicated that they have had conversations with their clients about listing their property for short-term-rentals and for those that have, they generally recommend that they not do so.

In short, listing your home, extra room, apartment or even couch on a short term rental basis looks like easy money...and it is, until something goes wrong.

- What happens when someone trips and falls in your home and is seriously injured? For that matter, what happens when you “share” someone's home and get hurt on their property?
- What happens when the people you rent your home to trash it for no apparent reason?
- What happens when the people that you rent your apartment to decide that they like your

home audio/TV system so much....they decide to take it with them?

- What happens when you forget to ask if anyone is allergic to peanuts when you served them those wonderful muffins and they end up in the emergency room at the local hospital?

There are a number of policies that cover any number of the scenarios that we have been discussing in this task force.

Policy forms that come into play:

Homeowners

Rental Dwelling with special provisions for Virginia and Special Coverage for Virginia

Dwelling Policy

And of course, your Commercial General Liability policy

While as we will see, your Virginia Homeowners Policy provides some limited coverage, one problem with this market is that generally speaking the “standard insurance market” – those insurance policies that need approval by the Virginia Bureau of Insurance – does not like the short term rental business. For example, Travelers and State Farm may cover your home owners insurance UNTIL they

find out your rent out your home on an occasional basis. They may not be able to cancel your policy mid-term, but they can certainly non-renew your policy in the future. And as we will see shortly, you may have limited coverage in your standard home owners policy but there are plenty of gaps in coverage unless you accept that you are conducting a commercial enterprise and speak with your insurance agent about getting a commercial policy.

Let me ask Joe Hudgins – our technical consultant – who has worked on the insurance company side for close to 40 years to briefly walk through the standard home owner policy....approved for Virginia. This policy may be distinctly different then the policies approved in other states. He will then outline what we learned about the AirBNB host insurance policy. I stress however, that as far as we could learn, AirBNB is the ONLY on-line service that portends to provide insurance for the hosts that sign up in their program. And there are many home share platforms on the Internet.

[Joe – Review Homeowner Policy and what we learned about the AirBNB policy.]

A couple of points. First, about the AirBNB policy. Without the opportunity to look at it, the insurance agent must assume that it does not exist. While Lexington provides a homeowners gap coverage policy for short term rental hosts, and Allstate looks like it has a gap coverage endorsement for current insureds, the prudent insurance agent will try to find insurance policies with endorsements to fully cover someone who wants to get into short term rentals. It will be up to the host to decline duplicative coverages and the agent may very well ask the host to sign a statement that they declined coverage.

Consumers should not be surprised at the different reactions they get from captive agents and independent agents. We talked with several captive agents who said that if any of their clients called asking about short term rental coverage through their existing coverage, the client would be non-renewed at the renewal time. Independent agents have a little more leeway in counseling the client about short term rental insurance but that we're aware of, all short term rental policies will be written on the surplus lines market and not the admitted market regulated by the Bureau of Insurance.

To reiterate, there is no definition of “occasional” when it comes to short term rentals and when you would be considered to be operating a business. Some companies may have more latitude than others.

Finally, there is no requirement that people or companies buy any insurance. The prudent person will. Having said that as we found out, only 20% of the people in Louisiana have flood insurance. Between 15 and 20% of the homeowners in California have earthquake coverage. How many people in the short term rental business have anything other than homeowners insurance? How many don't even have homeowners or renters or dwelling insurance?

Again, generally speaking, those who truly believe they are commercial entities and who would like to protect their property and assets have insurance but there is no requirement for them to do so.

In preparation for this presentation, we received several questions which I would like to address.

First In a Dillon's Rule state like Virginia, there must be *authorizing* legislation. The introduced

legislation only states that localities aren't *prohibited from* adopting ordinances requiring insurance coverage, but it doesn't affirmatively authorize that. – **I'll defer to Ed Mullen and other attorneys but if the Code is amended which provides the locality the option to exercise their authority to do something, then the locality could exercise that limited authority.**

- Localities don't have authority (under enabling legislation for zoning, local tax, or BPOL) to regulate insurance coverage, and few areas of local regulatory concern are covered within Title 55 of the State Code. What's the logical [legal] source of local government authority for regulatory control/ mandates with respect to insurance coverage for specific uses of property? – **While the Bureau of Insurance, insurance company representatives and us could be consulted in terms of what types of insurance are appropriate, in this case it's not the insurance that's being regulated but the entity. We don't know how you could mandate the adequacy of coverage for the couch, apartment, home or mansion and the**

disparities of each. For example, does the couch, apartment, condo or home come with a pool? Is a meal included or not? Certainly the owners of the Comfort Inn or a Hilton for that matter have different measures of adequacy of coverage then does the Barboursville Bed and Breakfast.

- What TYPE of insurance is the General Assembly talking about? What type of “liability” (property/ contents of the lodger? personal injury/ death of the lodger? damage by the lodgers to the homeowner’s property/ contents of the house? What basis (claims made/ occurrence(s), etc.)?
 - o Homeowner’s Insurance coverage?
 - o Commercial general liability insurance coverage?
- Can an individual who is a TENANT of a dwelling unit, and operating it as “limited residential lodging” obtain Insurance Coverage for the lodging use? Would that be covered by a Renter’s Insurance Policy? (The legislation allows renters to be operators of a limited residential lodging use)

Joe's presentation should have addressed many of these concerns. It seems appropriate that if any insurance would be mandated that it would be mandated on the liability side protecting the consumer. That seems to be the intent of the legislation proposed last year. It would be up to the host as it were to decide how much of their own assets/property they would want to protect. Whether the insurance is written on an occurrence or claims made basis would not be material – virtually all commercial policies these days are written on a claims made basis.

- Is there an existing type of insurance that can be obtained by an individual homeowner or tenant for this use? If so, what's it called, and how much does it cost? Will it cancel out coverage under other policies? Is such insurance sold as a stand-alone policy, or as a "rider" or endorsement of some other type of policy? **- Potentially all of the above. As we mentioned, there are some homeowner gap coverage policies that exist. You could possibly purchase a homeowner policy and a commercial policy for rentals. Depending on**

the property, a Dwelling policy might be appropriate. You can get a “short term rental policy”. How much does it cost? Allstates gap coverage policy is an endorsement to the existing homeowner policy and adds \$50 to the conventional homeowners policy. I’m not aware that this endorsement is available in Virginia however. A commercial policy could easily cost into the thousands of dollars. Having said that, we get back to the risk – are you insuring for a couch, room, apartment, condo or single family dwelling and how much of your assets do you want to protect? What’s your exposure and what limits of liability do you want?

- Currently, if an individual homeowner has Homeowner’s Insurance (or a tenant of a dwelling has Renter’s Insurance) will an insurance company cancel that policy, if it finds out that the property is being hired out as limited residential lodging, and not simply as someone’s personal residence? - **It’s doubtful that they can be cancelled in mid-term but it’s likely that they will be non-renewed. One of my concerns is that the insurance companies**

don't want to know what the consumer is doing.

- Why can't the statute just mandate that any entity that operates a hosting platform for this type of use **MUST** provide a minimum amount of \$500,000 liability insurance coverage for such use, and say exactly what type of insurance is being referred to? - **The statute could do that of course but in some cases that would be way too much and in other cases not nearly enough. Our members want to provide insurance that the customer needs and that's appropriate to their risk and tolerance for risk. Of course, we would hope that the consumer/short-term-rental participant would act prudently.**
- If a hosting platform is not involved, shouldn't the Government let homeowners work this out with their own insurance providers and mortgage companies, and keep local governments out of it? – **That is certainly our preference – that the consumer/short-term-rental host act prudently and recognize that they are conducting a commercial business**

and act appropriately. Having said that, pressure for regulation will occur the first time a single family home goes up in flames and the children are killed and the owner of the property had no insurance. We would like to see more of the hosting platforms more forcefully encourage their participants to speak with their insurance agent about adequate coverage.

Chip Dicks – who is on vacation today – sent in a specific question about the distinction between a dwelling policy and the standard homeowners policy and we'll follow up with him on the specifics of his question. However in short, a dwelling policy provides more limited property coverage than the homeowners policy and the unendorsed dwelling policy provides property coverage only, while the homeowners policy provides a package of property and liability coverages.

We are certainly available to answer any questions and thank you for this opportunity to present the insurance issues to the Task Force.

